Express Mail No.: EL 451 595 035 US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reexamination of: KERN *et al.*

Serial No.: 09/637,752

Group Art Unit: Unassigned

Filed: April 29, 1996

Examiner: James Thompson

For: ADENO-ASSOCIATED VIRUS-ITS  
DIAGNOSTIC USE WITH EARLY  
ABORTIONAttorney Docket No.:  
8484-013-999DECLARATION OF CAROLYN GARCIAAssistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

Sir:

I, Carolyn Garcia, a citizen of the United States, do hereby declare and state as follows:

1. I am the Docket Supervisor in the Records and Docketing department of Pennie & Edmonds LLP, located at 1155 Avenue of the Americas, New York, New York 10036.
2. Since August, 1983, my duty has been and is to maintain, personally and with the assistance of other employees of the firm, the docketing system, by means of which a record is maintained of all communications received from the United States Patent and Trademark Office (PTO), record is maintained of the status of pending applications, and by means of which timely reminders are made to the attorneys of the firm of the requirements for amendments, appeal, payment of issue fees and the like.

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DEC 13 2000  
TC 2800 MAIL ROOM

3. For this purpose, the firm maintains, and has since my employment maintained, a daily tickler record of all pending applications for a United States patent in which a response, issue fee or other action (e.g., appeal to the Board of Appeals and Interferences) is due in the United States Patent and Trademark Office on such day. Since I assumed the position of Docket Supervisor in 1983, the daily tickler record has been computerized.

4. The New York office of the law firm of Pennie & Edmonds LLP is required by policy to utilize the following docketing procedures:

a. Official PTO Correspondence is entered in a mail log on the date on which it is received.

b. A photocopy of each piece of PTO correspondence is made and kept in the Docketing Department.

c. PTO Correspondence is docketed in three places: (1) computerized docketing system, (2) on the file itself for each United States Patent Application file, and (3) on the correspondence itself.

d. All PTO correspondence is reviewed prior to being delivered to the appropriate attorney.

e. The file with the docketed PTO correspondence is then forwarded to the appropriate attorney.

5. The first notification that I received that an Decision on Petition for Revival Under 37 CFR 1.137(b) ("Decision"), dated February 15, 2000, had been mailed for this application was when Mr. Joseph Clark, a secretary supporting and working under the direction of attorney Birgit Millauer, with Pennie & Edmonds LLP, inquired about the Decision on September 7, 2000. A review of the files (Pennie & Edmonds LLP docket no.

8484-013) did not reveal the Decision dated February 15, 2000. Copies of the mail logs from February 15, 2000 through May 31, 2000 indicating that no Decision, dated February 15, 2000, was received, are attached hereto as Exhibit 1.

6. The above-identified procedures for handling mail were in place at the time the Decision, dated February 15, 2000, would have been received in our offices. I checked the mail log for the days between February 15, 2000, and May 31, 2000, to determine whether a Decision, dated February 15, 2000, was received for this application. My search did not identify a copy of the Decision, dated February 15, 2000.

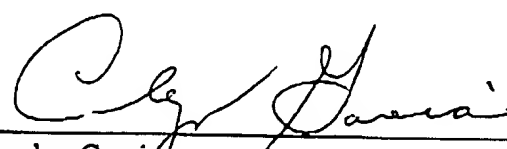
7. I have checked the computer docketing system and no indication of the Decision being received is there.

8. There is no indication in any of our records that I am responsible for that the Decision was ever received.

9. It is my belief, based upon my search and my personal knowledge, that the Decision, dated February 15, 2000, for this application was never received by Pennie and Edmonds LLP between February 15 and May 31, 2000.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Dated: 9/18/00

  
Carolyn Garcia

The following U.S. Patent papers were received by the Pennie & Edmonds

Docketing Department on 2/15/00

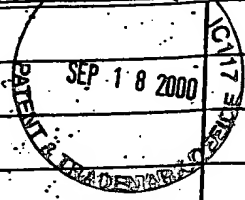
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9093-011	6511-176			
9392-013				
174-605				
618-704				
5113-053				
174-650				
9301-037				
618-710				
10053-009				
9301-069				
9301-026				
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7853-174				
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174-457				
174-739				
174-737				
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7326-073				
8709-044				
8961-007				
9424-025				
7156-052				
174-605				

EXHIBIT 1

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## Docketing Department on

2/13/00

A circular stamp from the Patent & Trademark Office. The text "PATENT & TRADEMARK OFFICE" is written around the bottom half of the circle. The date "SEP 18 2000" is stamped in the center. The top half of the circle contains the words "GOIPED" and "JCT17".

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TC 2800 MAIL ROOM

The following 145 papers were received by the Pennie & Edmonds

Docketing Department on 2/18/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
8484-058	9239-006			
9808-016				
174-632				
9840-021				
7754-061				
9598-068				
8173-045				
8484-041				
9818-010				
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10001-005				
9842-156				
6261-176				
7188-157				
9439-004				
9455-003				
5763-024				
7960-067				
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2270-027				
2270-006				
8526-004				
9345-004				
7969-083				
7969-082				
414-141				
10062-003				
774-611				
8254-019				
618-668				

The following U.S. District Court papers were received by the Pennington, Edmonds

Docketing Department on 2/22/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
9827-005	7991-049			
8535-014	9301-035			
8631-090	9301-042			
9683-006	174-594			
9842-166	9471-003			
09/411,587	7501-006			
9842-163	09/874,984			
09/259,671	6923,054			
8265-165	8265-294			
9077-012	4116-032			
8795-005	07/715,300			
9392-017	8449-050			
8498-011	09/044,806			
7853-090	2988-654			
8067-049	8656-022			
174-602	09/157,307			
174-738	8958-006			
6670-075	7156-082			
8535-015				
2988-500				
09/332,685				
9457-016				
7934-036				
7565-060				
7683-122				
7326-038				
09/217,703				
7116-079				
9962-004				
9465-005				

2/23/00

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# U.S. CUSTOMERS

## Docketing Department on

2/25/00

[illegible]

The following **US Patents** papers were received by the Pennick & Edmonds

Docketing Department on

3/28/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
7326-066	9125-004			
174-689	174-736			
7206-065	7838-008			
174-692	7565-039			
174-726	6925-197			
4821-322	8773-078			
8464-031	9804-101			
9175-006	7316-186			
9840-015	8067-056			
9426-013	10041-002			
9371-005	9797-050			
618-679	8265-298			
7420-074	8243-006			
3756-390	5624-193			
7853-174	8356-050			
8464-032	7872-019			
9175-010	6713-042			
8656-020	2988-621			
9195-028	8067-067			
7188-039	7960-015			
9882-009	10244-003			
9322-009				
10130-010				
6923-081				
9598-034				
9324-005				
6511-176				
8811-011				
10192-005				
10192-003				

U.S. Patent papers were received by the Pennie & Edmonds

Docketing Department on 2/24/00

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3/1/00

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Papers were received by the Pennie & Edmond

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The following papers ~~were~~ received by the Pennie & Edmonds

Docketing Department on

3/4/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
9060-075	9707-008			
7969-077	7969-000			
10248-011	7934-038			
10248-010	4821-315			
7954-109	7934-007			
New Appln -	Fanucci			
New Appln -	Fanucci			
New Appln -	1830-775			
7954-148	6713-042			
7204-009	618-704			
9113-019	8631-103-228			
7532-029				
555-015-228				
830-870				
7772-218				
174-698-228				
7046-022-228				
5265-245				
7853-114				
5801-178-228				
7639-080				
7426-019				
7117-030				
811-035				
9882-003				
7434-005				
10248-007				
478-006-228				
7206-064-228				

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Docketing Department on

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408-135

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Docketing Department on

New Appln-DC	10133-003
7878-035	
9804-079	
8897-002-228	
8005-011	
9021-006	
7683-157	
2988-641	
6923-068	
10248-014	
10019-008-001	
9392-013-008	

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8758-010	
Fanucci-New Appln -	
New Appln- Fanucci	
1719-200-228	
8265-075	
8996-011	
9584-016-228	
9121-003-228	
7499-138-228	
2648-012-228	
4066-011-228	
9318-019-228	
7565-038	
618-679	
8449-057-228	
9352-005-228	
8607-017	
8272-005	
9017-023-228	
1719-200-228	

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
7842-047				
8498-025				
4598-027.				
8389-060				
8389-078				
9710-007.				
8265-089				
8865-006				
7116-078				
618-686-228				
8991-008-228				
2988-648				
7134-085-228				
7872-067				
2988-628				
174-708				
10162-003				
9205-029				
10003-030-228				
9175-004				
7419-0015				
4511-194				
6511-182				
4821-325-228				
174-607-228				
2988-538				
7866-142				



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618-668

U.S. Patents •

The following papers were received by the Jennie & Edmonds

**Docketing Department on**

3/5/00

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# Patents- US

The following papers were received by the Pennie & Edmonds

Docketing Department on

3/17/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
New Appln - Faruqi				
7944-058-999	8607-015-			
New Appln - Faruqi				
7853-130				
7853-096				
8265-185				
6670-078-228				
6625-009-228				
6551-1041-228				
9318-020-228				
9392-023-228				
8907-056-999				
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9808-020-228				
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1101-208				
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3696-343-228				
7206-054-228				
7594-025-228				
7683-147				
9301-038				
8041-008				
10003-031-228				
2270-005				
6650-154				
8319-005				
6739-067				

# Patents

The following papers were received by the Pennie & Edmonds

Docketing Department on

3/30/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
9818-012	7853-153			
7683-114	7206-056-228			
10093-009	8811-011			
9827-005	8265-202			
9598-059	9301-013-228			
9797-063	9301-032-228			
9240-005-228	9478-008-228			
8484-048	9950-003			
10056-003-228	10063-003			
9840-028-228	7853-138			
7853-098	174-458-228			
7853-078	618-691-228			
6343-127	1920-042			
9520-004-228	5914-071			
8265-187	6261-207			
1080-111	6526-154-228			
7005-125	7032-012-228			
9392-017-228				
9557-004				
8865-006				
9557-003				
5763-022				
1830-821-228				
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7683-143				
8676-006-228				
8356-050				
5925-015				
8449-022				
7426-004-228				

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US Patents

The following papers were received by the Pennie & Edmonds  
Docketing Department on 3/20/00

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The following papers were received by the Pennie & Edmonds  
Docketing Department on 3/23/00

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The following papers were received by the Pennie & Edmonds

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The following papers were received by the Donnie & Edmonds

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Docketing Department on \_\_\_\_\_

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
7709-039	5914-058			
174-639	8657-026			
8484-080	5914-073-228			
6261-202-228	9736-008			
8912-005	9424-000			
2278-004-228	6973-084-228			
7565-043	9136-003			
174-422-228	9408-024			
7853-092	9175-006-228			
8389-071				
4821-362				
7842-046				
174-739-228				
9798-004-228				
6551-1159-228				
8464-034				
8464-028				
174-649-228				
3756-413-228				
168-576-228				
8613-049				
8631-009				
8631-009				
6261-202-228				
9301-026				
9584-007				
1830-945				
8265-260				
9407-003				

The following papers were received by the Pennie & Edmonds

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The following papers were received by the Pennie & Edmonds  
Docketing Department on 3/31/00 -

The following papers were received by the Pennie & Edmonds  
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The following **TABLE**

papers were received by the Pennie & Edmond

Docketing Department on

43100

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Docketing Department on

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papers were received by the Pennie & Edmonds

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Office Actions	Filing Receipts	Assignments	Issue Notification	Other
8912-007	0174-698-228	8141-155		
8097-020	9318-006-228	7872-52-228		
9782-082	8265-257	8666-005		
9328-008-228	9598-028	9411-004		
8484-75	7454-134	9411-006		
8498-26-228	9557-004	8932-585		
9114-004	5763-028	0414-143		
8996-011-228	5763-016	9707-004-228		
9426-022-228	9301-69-228	7853-197		
5914-75	1830-839	9455-3-228		
9366-005-228	9885-006	9352-005-228		
9584-006-228	9952-017	8760-18		
8097-003	7206-054-228	7853-150		
4821-352-228	8715-004			
0174-674	8243-006			
0174-729-228	7969-083-228			
0618-763-228	7853-193			
2017-021	7853-024			
5801-597-228	2270-030			
7185-032-228	6511-159			
9392-20-228	1101-174			
8865-004	2988-500			
7853-180	9924-003			
0174-674-228	8002-042			
7565-047	9341-021			

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papers were received by the Pennie & Edmonds

Docketing Department on

4/18/02

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## Docking Department on

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The following

papers were received by the Pennie & Edmonds

Docketing Department on

4/25/07

[illegible]



The following

papers were received by the Pennie & Edmond

Docketing Department on 4/18/02

[illegible]

Docketing Department on 4-27-00

[illegible]

The following

Docketing Department on

4/28/02

[illegible]





The following U.S. Patent papers were received by the Pennie & Edmonds

Docketing Department on 5/1/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
9442-003	9555-015			
9602-003				
9532-031				
8912-004				
8613-031				
9804-008				
3006-036				
8907-031				
5624-177				
7420-040				
9842-166				
7174-069				
10231-003				
9952-017				
9804-008				
09/211,804				
08/557,108				
7853-130				
7853-097				
8907-088				
8031-010				
8484-038				
09/291,901				
9598-068				
8498-027				
9840-039				
2267-009				
10414-005				
1719-226				
9478-006				

The following U.S. Patents papers were received by the Pennie & Edmonds

Docketing Department on 5/2/00

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The following U.S. Patents papers were received by the Pennie & Edmonds

Docketing Department on 5/3/00

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The following

U.S. Patents

papers were received by the Pennie & Edmonds

Docketing Department on

5/8/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
9598-034	9532-029			
318-241	08/1930,500			
7872-052	9885-007			
7594-038	6739-067			
7960-072	8484-060			
7326-101	318-240			
9434-009				
1101-202				
8317-026				
8265-169				
2270-026				
8265-207				
2270-018				
8031-010				
414-141				
3147-017				
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8479-038				
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8511-021				
9387-012				
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7116-073				
7853-109				
2270-003				
8265-025				
618-645				
8897-013				

The following U.S. Patents papers were received by the Pennie & Edmonds  
Docketing Department on 5/9/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
174-760	9301-040			
10003-031	174-556			
174-729	9424-043			
6923-083	6551-1170			
174-742	9629-003			
6551-1283	8399-007			
174-603	10003-031			
174-705	9301-029			
4821-369	10003-030			
4821-334	7565-073			
174-762	7867-018			
8389-058	8141-126			
174-676	9584-016			
2017-035	9632-005			
8951-124	8535-027			
9856-003	3756-413			
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174-675				
5894-128				
10653-012				
9473-012				
10172-027				
10164-010				
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9392-023				

The following

papers were received by the Pennie & Edmonds

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The following U.S. Patents papers were received by the Pennie & Edmonds

Docketing Department on 5/12/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
7853-083	9392-020			
9348-003	1830-867			
7761-008	174-661			
318-194				
7872-047				
7960-061				
7853-109				
7853-048				
1830-756				
8828-017				
8958-019				
8449-045				
9205-025				
9426-003				
10053-042				
2988-621				
1830-753				
8265-212				
2988-593				
2270-014				
5334-031				
09/328,297				
7934-087				
8498-022				
9710-015				
<del>4551-1186</del>				
09/193,370				
6551-1186				
10244-004				
9301-069				



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The following

papers were received by the Pennie & Edmonds

5/17/00

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The following

papers were received by the Pennie & Edmonds

5/18/00

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## U.S. Patents

5/19/00

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The following U.S. Patents papers were received by the Pennie & Edmonds

Docketing Department on 5/22/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
7426-016				
8479-021				
8648-012				
8071-013				
7116-050				
6523-007				
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618-713				
7156-077				
7934-039				
7326-184				
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10351-007				
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8265-089				
5801-136				
9710-004				
174-418				
174-684				
174-610				
4021-338				
174-762				
174-763				
9318-019				
174-797				
7747-023				
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Docketing Department on

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The following U.S. Patents papers were received by the Pennie & Edmonds

Docketing Department on 5/30/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
8479-046	9435-015			
9426-029	8479-047			
8479-048				
8479-045				
10382-003				
7682-049				
7853-149				
9175-004				
7815-026				
09/195,830				
08/962,690				
9555-007				
2270-003				
7419-008				
9817-003				
8092-004				
2988-503				
6530-012				
9195-032				
8484-031				
7683-050				
9093-007				
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9804-092				
10460-003				
7156-082				
7960-118				
5925-018				
8484-081				
8041-008				

The following U.S. Patent papers were received by the Pennie & Edmonds

Docketing Department on

5/31/00

Office Actions	Filing Receipts	Assignments	Issue Notification	Other
2988-627	7840-010			
9965-004	6923-071			
8696-294	7565-066			
8934-003	318-294			
2287-006	8005-013			
6713-047	8535-026			
7116-049	9627-004			
1683-041	9598-065			
8757-010	7761-009			
7420-065	7419-024			
3756-409	08/986, 185			
7326-044	8757-011			
1821-216	9366-003			
19/332, 286	9993-007			
5756-410	9301-021			
1853-108	8265-204			
3657-027	8265-011			
5414-065	174-557			
2988-573	7960-119			
018-795				
1792-003				
1792-003				
2287-005				
2511-179				
1974-018				
561-208				
5932-112				
535-028				
847-011				
565-068				